

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF THE DISCIPLINARY COUNSEL, Petitioner,

vs.

ALVIN T. SASAKI, Respondent.

(ODC 97-006-5200)

ORDER OF PUBLIC CENSURE AND COMMUNITY SERVICE

(By: Masuoka, Acting C.J., Ibarra, Raffetto,
and Chang, Acting JJ.)

We have considered the Disciplinary Board's Report and Recommendation for the suspension of Respondent Alvin T. Sasaki from the practice of law for a period of three (3) years, Petitioner's arguments for a three (3) year suspension, Respondent's arguments for a suspended suspension of less than one (1) year, and the record. The parties have stipulated to the facts and circumstances of Respondent's misconduct and the hearing committee's conclusions of law, which were adopted by the Board, are supported by the record. We impose 300 hours of community service and a public censure.

The parties stipulated to the following facts: Respondent Sasaki, while in private practice, falsely notarized several documents between 1988 and 1990 including a 1988 Power of Attorney and a 1988 Will for Diana Cavaco, a 1990 Health Care Declaration for John S. Klarer, and a 1990 Mortgage, Security Agreement, and Financing Statement for Barbara F. Patria, Nelson Patria, Dana Adonis Patria, Leslie Lynn Puanani Patria-Thoene, and Alexander Walker Thoene, all at the behest of his former law partner Jonathan Ezer. Respondent also falsely notarized a series of documents in 1990 for various family members and

2003 APR - 1 AM 9:23

FILED

friends. In 1991, Respondent gave false testimony in a deposition in order to conceal the false notarizations for Ezer. In 1992, Respondent filed his false notarial record with the First Circuit Court. In 1993, Respondent was brought before the Disciplinary Board for his false notarization of the 1990 Mortgage. Respondent concealed information about his false notarization of the 1988 Will from his attorney and, in a letter to the Board, made a false statement concerning his notarial practices in order to further conceal his actions. As a result of the Board's investigation, Respondent received a public reprimand. In 1996, the Office of Disciplinary Counsel began an investigation of Ezer. During an August 1996 interview with an investigator for the Office of Disciplinary Counsel, Respondent voluntarily reported his false notarizations. In 1998, the Office of Disciplinary Counsel initiated disciplinary proceedings against Respondent. The Disciplinary Board filed its Report and Recommendation with this Court in March 2000, seven (7) years after the last incidence of misconduct.

The Disciplinary Board found that Respondent's actions, as stipulated, violated the following provisions of the Hawai'i Code of Professional Responsibility: DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(5), and DR 1-102(A)(6).

In support of its recommendation of a three (3) year suspension, the Disciplinary Board found, as mitigating factors, that Respondent Sasaki admitted his unethical conduct and has fully cooperated with Petitioner since his August 1996 interview, that Respondent Sasaki has expressed great remorse for his actions, that Respondent Sasaki acted without a dishonest or selfish motive, that Respondent Sasaki was highly respected by his peers for his integrity before his misconduct, remains highly respected for his integrity by his peers since the misconduct and still enjoys a good reputation for integrity among his peers

despite his misconduct, that Respondent Sasaki has engaged in exemplary behavior since the last incident of misconduct in 1993 and has the confidence of his present employer and colleagues, and that the instances of Respondent Sasaki's misconduct are so out of character as to constitute aberrational conduct that will likely never be repeated.

In consideration of the appropriate sanction, we have carefully considered the mitigating factors found by the board, as well as the lengthy passage of time from the incidents until completion of these disciplinary proceedings (see Order of Suspension, Case No. 23895, *Office of the Disciplinary Counsel v. Stephen A. Levine*, filed November 14, 2001).¹ It has long been recognized that the power to regulate the practice of law in Hawai'i, including the power to admit and discipline attorneys, is an inherent power conferred on the Supreme Court by Article VI of the Hawai'i Constitution. The Supreme Court is the ultimate trier of both fact and law in cases involving attorney discipline, and as such, is not bound by the findings and recommendations of the Disciplinary Board. Although the recommendation of the Board is given great weight, this Court is entitled to impose the discipline that it deems proper. While we view the Respondent's conduct as a matter of extreme gravity, the mitigating factors, including the passage of time and Respondent's clean record since the incidents occurred, lead us to believe that Respondent is unlikely to engage in this type of

¹This Court found, notwithstanding the fact that respondent lied to the trial court, the passage of time, at most four (4) years between Levine's misconduct in 1997 and the completion of the disciplinary proceedings, was a mitigating factor which required a lesser sanction than that recommended by the Office of Disciplinary Counsel. In the instant case, approximately seven (7) years passed between the last incident of misconduct in 1993 and the filing of the Disciplinary Board's Report and Recommendation in 2000.

misconduct again and that a suspension is not warranted. In light of the above,

IT IS HEREBY ORDERED pursuant to the Rules of the Supreme Court of Hawai'i 2.3(a)(3), that Respondent Alvin T. Sasaki is publicly censured. This order is effective upon entry.

IT IS FURTHER ORDERED that Respondent Sasaki will perform 300 hours of community service work under the supervision of the First Judicial Circuit's Adult/Juvenile Community Service and Restitution Unit by November 30, 2003.

DATED: Honolulu, Hawai'i, April 1, 2003.

George M. Masumoto
Alvin

J. F. Kotters
Gregory W. B. Long

DISSENT

(By: Kochi, Acting JJ.)

I respectfully dissent. I believe some period of suspension is warranted.

Kurt Kochi